

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

**FILED**

**JUN 15 2010**

By **PATRICK E. DUFFY, CLERK**  
**DEPUTY CLERK, MISSOULA**

UNITED STATES OF AMERICA,

CR 10-8-H-DWM

Plaintiff,

vs.

**FINDINGS & RECOMMENDATION  
CONCERNING PLEA**

BEN ALAN DIVELY,

Defendant.

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered a plea of guilty to one count of credit union embezzlement, one count of money laundering, and one count of identify theft as alleged in the Indictment filed against him. After examining the Defendant under oath, I have made the following determinations:

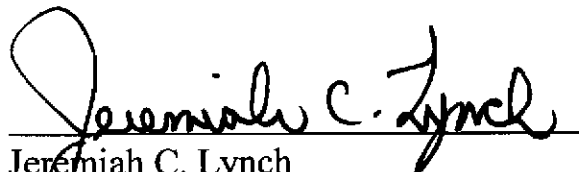
1. That the Defendant is fully competent and capable of entering informed and voluntary pleas,
2. That the Defendant is aware of the nature of the charges against him and consequences of pleading guilty to the charges,
3. That the Defendant fully understands his constitutional rights, and the extent to which he is waiving those rights by pleading guilty, and

4. That the plea of guilty is a knowing and voluntary plea, supported by an independent basis in fact sufficient to prove each of the essential elements of the offenses charged.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that he fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty of the criminal charges set forth in the Indictment, and that sentence be imposed.

**This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.**

DATED this <sup>15<sup>th</sup></sup>~~16<sup>th</sup>~~ day of June, 2010.

  
Jeremiah C. Lynch  
United States Magistrate Judge